IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI.APPLICATION NO.526 OF 2007
IN
CRI.APPEAL NO.416 OF 2007

Vijay Bapu Kamble ..Applicant
Vs.
The State of Maharashtra ..Respondent

...

Mr.S.R.Chitnis with Mrs.V.R.Raje Advocate for Applicant
Ms.V.R.Bhosale AGP for State

...

CORAM: R.M.S.KHANDEPARKAR, AND SMT.V.K.TAHILRAMANI, JJ.
DATE : JULY 03, 2007

P.C. [SMT.V.K.TAHILRAMANI,J.]:

1. Heard the learned Senior Advocate for the applicant and the learned AGP for the State.

2. The applicant has been convicted under Section 302 of IPC. The applicant is now seeking bail.

3. The prosecution case is that the applicant has strangulated his wife Alka. Mr.Chitnis, the learned Senior Advocate has stated that there is only one circumstance against the applicant i.e. "last seen" with his wife Alka. Mr.Chitnis submitted that the said circumstance of "last seen" is not enough to implicate the applicant. In

support of his contention, Mr.Chitnis has placed reliance upon the decision in the case of **State of Goa Vs. Sanjay Thakran and Anr.; 2007 SAR (Cri.) 385 Supreme Court**. In the said case, the accused and the witnesses were not known to each other prior to the incident. Moreover, there was considerable gap of time since the time deceased was last seen alive with the accused. The deceased and accused were not related in any manner. However, in the present case, the applicant and deceased were husband and wife. The witness Jayashree knew them since prior to the incident. Thus, this decision would not apply to the facts of the present case.

4. Alka was found dead in the morning on 31.12.2005. P.W.9 Smt.Jayashree has stated that at about 11.15 p.m. i.e. on the earlier night when she was returning home, she saw the applicant and his wife. A quarrel was going on between them. Alka (deceased) told her that applicant suspected her character and he illtreated her. This witness tried to pacify the quarrel. It is also brought out in the cross-examination of this witness that when other persons were going by the road, Alka and

accused were quarrelling in loud voice. Besides this, it is necessary to see the conduct of the applicant. Though the wife of the applicant was found dead, he did not lodge complaint to the police station nor did he inform any relations about the death. Alka died in the night between 30.12.2005 and 31.12.2005. Her body was found at 4.40 a.m. in the open ground in the shrubs near Tilak Nagar Terminus at Andheri. There is no explanation from the side of the applicant as to whereabouts of Alka in the night between 30.12.2005 and 31.12.2005, so also, there is no explanation as to the whereabouts of the applicant during the said night. It is pertinent to note that both of them were seen returning home at 11.30 p.m. by Jayashree.

5. Looking to the evidence on record, we do not think that this is a fit case to grant bail. Application is rejected.

[R.M.S.KHANDEPARKAR, J.]

[SMT.V.K.TAHILRAMANI,J.]